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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,372	02/11/2002	Robert Ball	1671-0191/DEP-612	5536

7590 05/18/2004
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EXAMINER

WEBB, SARAH K

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/074,372	Applicant(s) BALL ET AL.	
	Examiner Sarah K Webb	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 11, 13, 19-24 and 27 is/are rejected.
- 7) ☐ Claim(s) 4-10, 12, 14-18, 25, 26, 28-34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/11/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 6 and 19 is objected to because of the following informalities:
 - a. The terms (i) and (ii) in line 2 of Claim 6 should be removed.
 - b. The word "with" in line 5 of Claim 19 should be "within."

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3,11,13,19-24 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 853,832 (Ryan).

Ryan discloses a cutting device including a housing (1), an actuator (11) in the housing, a cutting member (parts 4,6,8 combined) in the housing, and a driver (14) that moves relative to the housing (1). Since the cutting surfaces (7) are fixed to and rotate with the disc (6) and shaft (4), the entire combination of these parts is considered to be "the cutting member." The housing includes cutting surfaces (10) in the side wall and end wall. The actuator (11) includes a "cam member" that cooperates with the cam member, or groove, of the shaft (4) of the cutting member (4,6,7). Axial movement of the actuator (11) is caused by movement of the driver (14), and the movement of the actuator causes the entire cutting member (4,6,7) to rotate relative to the cutting

surfaces (9,10) in the walls of the housing. Ryan explains that when an object is inserted into the slots (9,10), it is severed when the cutting surfaces move relative to one another (column 2, lines 70-74). The thread on the shaft (4) of the cutting member can be defined as a "protrusion" or "cam follower." The actuator (11) inherently has a cavity with a groove that cooperates with the thread of the shaft (4). Otherwise, it would not be able to impart rotational movement to the shaft.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent No. 2,894,324 (Hardin) discloses a cutting device that includes a housing defining a first cutting surface, a rotating cutting member, a cam groove and follower mechanism, and a driver. US Patent No. 4,940,074 (Menard) discloses a pin cutter with a rotating cutting orifice that severs a pin when moved out of alignment with cutting orifice on the housing. US Patent No. 3,315,669 (Rhodes) discloses a device for cutting bone pins that severs the pins by moving two cutting orifices out of alignment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K Webb whose telephone number is (703) 605-1176. The examiner can normally be reached on Mon-Fri 8-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on (703) 308-2496. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3731

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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05/12/04

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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700